

This letter discusses sales for resale and whether MPC credits can be applied toward purchases of packaging material. See 86 Ill. Admin. Code 130.331. (This is a GIL.)

October 24, 2007

Dear Xxxxx:

This letter is in response to your letter received in Legal Services on January 9, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a manufacturer of a variety of bus and rail components used in the transportation industry. Our product is typically sold to other manufacturers who further integrate our parts into their product.

Our question relates to the MPC credit. We have a production facility in Illinois, where we are purchasing packaging materials that is [sic] used to ship our product. The packaging materials include: cardboard boxes, bubble wrap, foam, kraft wrap and inserts. The packaging supplies are not returned to us, but shipped to [sic] out to our customer with the product.

We were questioning if the above purchase would qualify for the MPC credit. We had called the IL tax hotline and requested guidance on this. We have received conflicting opinions from your auditors. We were originally told that these purchases would qualify for the MPC. As MPC can be applied towards activities such as pre-production, , [sic] material handling, quality control, inventory control, storage, staging & packaging for shipping and transportation purposes. Were [sic] were told that under (35 ILCS 110/3-70) all tangible personal property used or consumed in pre-press activities such as graphic arts preliminary or pre-press production, pre-production material handling, receiving, quality control, inventory control, storage, staging, sorting, labeling, mailing, tying, wrapping and packaging.....qualify for MPC.

When we called back a couple of days later to get some clarification on how to apply for the MPC, we spoke to a different auditor, who said she didn't believe packaging qualifies for MPC, but possibly might qualify for a full re-sale exemption. Obviously, we are confused and would like to request a letter ruling on this issue. Does packaging qualify for the MPC resale exemption or neither? If it does qualify, must we file with the State of IL or the respective vendor?

If you have any further questions, I can be reached at #.

DEPARTMENT'S RESPONSE

SALE FOR RESALE

Purchases of packaging materials may be purchased tax free for resale as long as they are transferred along with the products contained in them to customers. See 86 Ill. Adm. Code 130.2070(a). Such purchasers must provide their suppliers with Certificates of Resale to document the exemption. The requirements for a valid Certificate of Resale are set forth at 86 Ill. Adm. Code 130.1405(b). Please note, however, that containers will not qualify for the exemption if, after delivery, the seller of the tangible personal property contained in them retained and reused them or discarded them.

MPC

The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See the Department's regulation regarding the Manufacturer's Purchase Credit at 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70.

The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption.

"Production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See Section 3-85 of the Use Tax Act).

The Department's regulation at 86 Ill. Admin. Code 130.331 (b)(4)(D) provides that tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation are considered production related.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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